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 Early Development, Art Arnold, and Sharon Schumacher.

**IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF ALASKA**

LEWIS KING DEANS,)
)
 Plaintiff,)
)
 vs.)
)
 ANCHORAGE SCHOOL DISTRICT,)
 et al.,)
)
 Defendants.)

Case No. 3:05-cv-00283-TMB

STATE'S JOINDER IN ANCHORAGE SCHOOL DISTRICT'S NOTICE
and
STATE'S REQUEST FOR CLARIFICATION AND REQUEST TO STRIKE
DOCUMENTS OR HOLD FILINGS IN ABEYANCE

Counsel for the state defendants gives notice that he has not received the documents filed by Deans on March 14, 2007. After receiving electronic notification from the court on March 19, however, counsel was able to view the documents, and provides this response.

The state defendants join in Anchorage School District's notice of uncertainty regarding Mr. Deans' filing. The reason we need clarification is that, in this

1 litigation, Mr. Deans has filed many documents, and many of his documents have been
2 given titles that do not necessarily match the form of pleadings one would usually find in
3 the Civil Rules.

4
5 For example, the document served with a summons that began this
6 litigation was titled “Verified Motion of Summary Judgment.” The state has been
7 treating this document as a complaint, and has requested judgment on the pleadings
8 because this complaint fails to state a claim for relief.

9
10 As this shows, the defendants cannot rely on the title of Mr. Deans’ filings
11 to give us guidance as to their true nature. Now we have two new documents filed by
12 Mr. Deans and we cannot tell what they are.¹ Although they purport to be motions, they
13 actually oppose the defendants’ Motions to Dismiss. Thus, they appear to be
14 supplemental oppositions or sur-replies, neither of which is allowed under the Federal
15 Rules of Civil Procedure, and neither of which would be timely even if allowed.
16 Furthermore, given that the Motion to Dismiss must be decided on the pleadings, the
17 filing of exhibits in opposition to a Motion to Dismiss is not allowed. Therefore, if these
18 documents are late-filed supplemental briefs to address the existing motions, the state
19 would request that these documents be struck from the record.
20

21 In the alternative, if this court believes that these documents are motions
22 that would begin a new round of briefing, then the state requests that the court hold these
23

24 ¹ The documents are titled “Substantiated Evidential Motion to Objection of
25 Motion Memorandum Supporting Motion to Dismiss by Defendants” and “Motion to
[Submit] Evidential Exhibits Supporting Objection to Motion Memorandum Supporting
Motion to Dismiss All Defendants.”

1 motions in abeyance until the court has ruled on the defendants' Motions to Dismiss. If
2 we need to address these motions at a later time, the court can set a briefing schedule.

3 In sum, in the state's view, the defendants' existing motions are ripe for
4 decision without further briefing or argument. The documents filed by Mr. Deans should
5 not be considered by this court at this time. The state will not respond to the newly filed
6 documents unless requested to do so by this court.
7

8 DATED this 27th day of March 2007, at Juneau, Alaska.

9 TALIS J. COLBERG
10 ATTORNEY GENERAL
11 Attorney for defendants the Alaska Department
12 of Education and Early Development, Art
13 Arnold, and Sharon Schumacher.

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23 **CERTIFICATE OF SERVICE**

24 I hereby certify that on March 27, 2007, a copy of the
25 foregoing document was served via electronically and/or
by USPS on the following attorneys or parties of record:

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